

Filed: August 10, 1999

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

No. 98-4799
(CR-98-125)

United States of America,

Plaintiff - Appellee,

versus

Onesimo Elizar Guerrero-Mendoza,

Defendant - Appellant.

O R D E R

The court amends its opinion filed June 29, 1999, as follows:

On the cover sheet, section 6 -- the status line is corrected to read "Affirmed by unpublished per curiam opinion."

For the Court - By Direction

/s/ Patricia S. Connor
Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

No. 98-4799

ONESIMO ELIZAR GUERRERO-
MENDOZA,
Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
William L. Osteen, District Judge.
(CR-98-125)

Submitted: June 17, 1999

Decided: June 29, 1999

Before MURNAGHAN and TRAXLER, Circuit Judges, and
BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Louis C. Allen III, Federal Public Defender, William S. Trivette,
Assistant Federal Public Defender, Greensboro, North Carolina, for
Appellant. Walter C. Holton, Jr., United States Attorney, Arnold L.
Husser, Assistant United States Attorney, Greensboro, North Caro-
lina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Onesimo Elizar Guerrero-Mendoza appeals from his conviction and sentence for illegal reentry into the United States by a deported alien, in violation of 8 U.S.C.A. § 1326(a), (b)(2) (West 1999). Guerrero-Mendoza's attorney filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), noting one issue but stating that, in his view, there are no meritorious issues for appeal. Guerrero-Mendoza was informed of his right to file a supplemental brief, but he has not done so.

After pleading guilty, Guerrero-Mendoza's guideline range was calculated as forty-six to fifty-seven months, and the district court sentenced him to a term of fifty-two months imprisonment. Guerrero-Mendoza contends that his sentence was unduly harsh. However, since Guerrero-Mendoza's sentencing range was properly calculated and Guerrero-Mendoza was sentenced within that range, this court has no authority to consider this contention on appeal. See United States v. Jones, 18 F.3d 1145, 1151 (4th Cir. 1994).

We have examined the entire record in this case in accordance with the requirements of Anders and find no meritorious issues for appeal. We deny Guerrero-Mendoza's counsel's motion to withdraw, because this court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may renew his motion for leave to withdraw from representation. Counsel's motion must state that a copy was served on the client.

The district court's judgment is affirmed. We grant the Government's motion to submit the case on briefs, because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED